

To: All Kansas-Licensed Veterinarians

From: The Members of the Kansas Board of Veterinary Examiners

As members of the Kansas Board of Examiners, we continue to communicate to all licensees the Kansas Board's position regarding the purchase and resale of ethical products in a manner which violates those directions or conditions specified by the manufacturer to ensure the safe and efficacious use of the product. We have directed that you be provided the following excerpts from a recent Board Disciplinary Petition and the subsequent Final Agency Order of a Kansas veterinarian's license suspension for participation in such activities (the actual identity is not revealed). These case excerpts are being provided to you in an effort to convey and serve as notice of the Kansas Board's position regarding such activities. We also recommend you review the AVMA Principles of Veterinary Medical Ethics reference to such activities in Section VI, paragraph D. As required by the Kansas Open Records Act, the Board office will provide copies of appropriate case documents to anyone who sends a written request for such.

BEFORE THE KANSAS BOARD OF VETERINARY EXAMINERS

Kansas Board of Veterinary Examiners, Petitioner,)	Case Number: 04047
vs.)	
John Doe, D.V.M., Respondent.)	

DISCIPLINARY PETITION

The Investigative Committee of the Kansas Board of Veterinary Examiners for the purpose of initiating a disciplinary proceeding against the Respondent, John Doe, D.V.M., alleges and states as follows:

JURISDICTION

The Board's Investigative Committee has received certain information, has investigated that information, and has determined that probable cause exists to believe the Respondent has committed acts which violate certain provisions of the Act and the regulations promulgated by the Board.

CAUSES OF ACTION

Count I

On numerous occasions the Respondent purchased ethical veterinary products from one or more distributors or manufacturers through misrepresentation and in violation of those directions or conditions specified by the manufacturers to ensure the safe and efficacious use of the product for the purpose of reselling those ethical veterinary products to various establishments, including internet establishments which offer those ethical

veterinary products at retail to consumers. On multiple occasions the Respondent caused the ethical products to be charged to the accounts of veterinarians without their knowledge or authorization.

The Respondent has committed acts that would justify discipline of his Kansas license to practice veterinary medicine, pursuant to K.S.A. 47-830(r), K.S.A. 47-830(o), K.S.A. 47-830(o)(4), K.A.R. 70-8-1(a), and K.A.R. 70-8-1(b), by engaging in said transactions.

Count II

On numerous occasions the Respondent solicited and on numerous occasions conspired with Kansas veterinarians to purchase ethical veterinary products from various distributors or manufacturers through misrepresentation and in violation of established marketing policies of the manufacturers for the purpose of reselling those ethical veterinary products to various establishments, including internet establishments which offer those ethical veterinary products at retail to consumers.

The Respondent has committed acts that would justify discipline of his Kansas license to practice veterinary medicine, pursuant to K.S.A. 47-830(r), K.S.A. 47-830(o), K.S.A. 47-830(o)(4), K.A.R. 70-8-1(a), and K.A.R. 70-8-1(b), by engaging in said activity.

Count III

On numerous occasions the Respondent purchased prescription only veterinary products from one or more distributors or manufacturers through misrepresentation and in violation of established marketing policies of the manufacturers for the purpose of reselling those prescription only veterinary products to various establishments, which offer those veterinary products at retail to consumers.

The Respondent has committed acts that would justify discipline of his Kansas license to practice veterinary medicine, pursuant to K.S.A. 47-830(r), K.S.A. 47-830(o), K.S.A. 47-830(o)(4), K.S.A. 47-830(s), K.A.R. 70-8-1(k), K.A.R. 70-8-1(a), and K.A.R. 70-8-1(b), by engaging in said transactions.

Count IV

During the course of the investigation of this matter, the Respondent was directed in writing by a representative of the Board to produce certain information and documents. He has failed to comply.

The Respondent has committed acts that would justify discipline of his Kansas license to practice veterinary medicine, pursuant to K.S.A. 47-830(f).

WHEREFORE, it is respectfully requested that a hearing be held in this matter pursuant to the Kansas Administrative Procedures Act and that an order be entered by the Hearing Panel suspending, revoking or otherwise limiting, the license issued by the Board to the Respondent to practice veterinary medicine in the State of Kansas. It is further requested that an order be entered by the Hearing Panel ordering and directing that the Respondent pay an administrative fine in the amount of \$2,000 for each violation of the Kansas Veterinary Practice Act or Board regulation proven.

BEFORE THE KANSAS BOARD OF VETERINARY EXAMINERS

**In the Matter of John Doe, DVM)
Kansas License No. *****)**

Case No. 04047

STIPULATION AND FINAL AGENCY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Board of Veterinary Examiners (the "Board") and John Doe, DVM (the "Respondent") as follows:

4. The Board has received certain information, has investigated and has determined that there are reasonable grounds to believe that the Respondent has committed an act or acts in violation of the Kansas Veterinary Practice Act, K.S.A. 47-814, *et seq.*

5. Respondent hereby agrees not to contest, in this or any other proceeding before or initiated by the Board, that he has, on more than one occasion, solicited and arranged for the purchase by himself and other Kansas veterinarians of large quantities of [products] the Board has determined are ethical veterinary products, as defined by the Principles of Veterinary Medical Ethics of the AVMA, and re-sold those products to other than the end user of the products. Respondent agrees not to contest, in this or any other proceeding before or initiated by the Board, that he has solicited and arranged for Kansas veterinarians to purchase and resell [products] to retail establishments. Respondent further agrees not to contest, in this or any other proceeding before or initiated by the Board, that on one occasion such purchases of large quantities of [products] were made using the account of [another veterinarian] (clerical error) who never received nor paid for such purchases. Instead, the product was retained on the docks of [the distributor] and was picked up by an animal health retailer. The Respondent and others (other than the veterinarian whose account was erroneously charged through clerical error on one occasion) paid invoices. All veterinarians who held said accounts had full knowledge of the transaction as well as officials at [the distributor and the manufacturers of the products]. Respondent further agrees not to contest, in this or any other proceeding before or initiated by the Board, that the activities described above were conducted to circumvent manufactures' sales policies and constitute grounds for disciplinary action pursuant to K.S.A. 47-830 (r). Respondent further waives any right he may now or hereafter have to contest in any court whether the activities described above constitute grounds for disciplinary action pursuant to K.S.A. 47-830 (r).

The Board finds and concludes that the Respondent's conduct, as described above, was in violation of the Kansas Veterinary Practice Act and is grounds for disciplinary action in the State of Kansas, pursuant to K.S.A. 47-830 (r).

6. The Board finds and the Respondent agrees that the following disposition is just and appropriate under the circumstances:

A. **SUSPENSION.** Respondent hereby agrees and consents to the Board's entry of an order whereby his license to practice veterinary medicine in the State of Kansas is suspended for a period of 2 years from the effective date of the Final Agency Order contemplated hereby. The suspension shall not take effect if during a 36-month probation period, beginning on the effective date of the Final Agency Order contemplated hereby, the Respondent does not commit an act similar to those described in paragraph 5. If

Respondent commits an act similar to those described in paragraph 5, during the probation period, the suspension shall begin immediately and shall be in addition to whatever additional discipline the Board may determine is appropriate for the act(s) committed after the effective date of the Final Agency Order contemplated hereby.

B. ADMINISTRATIVE FINE. Respondent hereby agrees and consents to the Board entering an order requiring him to pay to the Board, within ten (10) days of the effective date to the Final Agency Order contemplated hereby, an administrative fine in the amount of Three Thousand Dollars (\$3,000.00).

C. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Final Agency Order he must:

1. Comply fully with this Stipulation and Final Agency Order;
2. Comply fully with the Kansas Veterinary Practice Act, the Board's rules and regulations and all state and federal laws relating to Kansas veterinarians.

15. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record in the custody of the Board.

17. For purposes of reporting to the National Disciplinary Data Base, this matter shall be categorized as follows:

A. Adverse Action Classification: "Publicly Available Fine/Monetary Penalty."

B. Basis For Action: "Unprofessional Conduct"

AGREED AND ACCEPTED BY:

John Doe, DVM
John Doe, DVM

February 13, 2006

Chairman Investigative Committee, DVM
Kansas Board of Veterinary Examiners

2-16-06

BEFORE THE KANSAS BOARD OF VETERINARY EXAMINERS

In the Matter of John Doe, DVM

)

)

Case No. 04047

Kansas License No. *****

)

FINAL ORDER

Upon motion duly made, seconded and passed, the Kansas Board of Veterinary Examiners approves and accepts the within Stipulation and Final Agency Order and incorporates the provisions thereof as the Final Order of the Board.

ENTERED AND EFFECTIVE this 21st day of February, 2006.

By: Board President, DVM, KANSAS BOARD OF VETERINARY EXAMINERS